



ETHICS REFERENCE

for State Employees

Subject to the Authority of the Office of Executive Inspector General for the Agencies of the Illinois Governor

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Note: This is not a legal opinion and is nonbinding

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Introduction/General Principles

Employees of the State of Illinois are subject to various laws, rules, and policies, some of which uniquely apply to those who work for the state. Certain of these laws, rules, and policies, including the State Officials and Employees Ethics Act (5 ILCS 430 et seq.), are intended to ensure that the functions of state government are conducted with fairness, honesty, and integrity. This, in part, is what it means to follow the principles of **ethics**.

The actions and conduct of state employees, appointees, and officials are essential to maintaining the public's trust in state government. Therefore, in addition to acting with honesty and integrity, state employees must use state-provided resources in the most productive and efficient way possible, and generally, only in support of the work of state government. In addition, state employees must avoid placing their personal or financial interests, or those of their family, friends, or business associates in conflict with those of the state.

This reference is meant to provide an overview of a select number of ethics-related laws, rules, and policies that apply to most executive branch state employees. It is not meant to be an all-encompassing compilation of each ethics-related law or rule which applies to those employees. When state employees have a question about either the legality or ethics of a matter related to their state employment, they are encouraged to discuss it with the ethics officer for their state agency.

Office of Executive Inspector General (OEIG)

Established in 2003, the OEIG acts as an independent state agency whose primary function is to investigate fraud, abuse, and violations of laws, rules, and policies in state government. It investigates allegations of misconduct by the employees, appointees, elected officials, and state vendors under its jurisdiction.

The OEIG's jurisdiction includes the state public universities, the Office of the Governor, the Office of the Lt. Governor, and all state agencies and departments of the executive branch of state government, except for those agencies under the jurisdiction of the Offices of the Attorney General, the Comptroller, the Treasurer, and the Secretary of State (other Inspectors General have jurisdiction over the four executive branch constitutional officers not under the OEIG's jurisdiction, and the state legislature).

Additionally, the OEIG has responsibility for investigating misconduct by those (such as contractors or vendors) who conduct business with state employees or entities under the OEIG's jurisdiction.

For additional information about the Office of Executive Inspector General for the Agencies of the Illinois Governor, visit its Web site at <http://www.inspectorgeneral.illinois.gov>.

Executive Ethics Commission (EEC)

Established in 2004, the Executive Ethics Commission, in conjunction with the Executive Inspectors General and the Attorney General, is responsible for the oversight of compliance, implementation, and enforcement of the State Officials and Employees Ethics Act. The commission consists of nine commissioners, appointed on a bipartisan basis, and it exercises jurisdiction over all officers and employees of state agencies under the control of the six executive branch constitutional officers of the state, as well as the state public universities.

The EEC also promulgates rules governing investigations of the Executive Inspectors General, exercises jurisdiction over all chief procurement officers and procurement compliance monitors and their respective staffs, and holds administrative hearings relating to alleged violations of the Ethics Act.

For further information about the Executive Ethics Commission, visit its Web site at <http://www.eec.illinois.gov>.

Ethics Training (from Ethics Act, Section 5-10)

Under the Ethics Act, executive branch employees are among those who must annually complete ethics training under appropriate oversight. Additionally, new employees must complete ethics training within 30 days of their initial employment. It is the responsibility of each state agency to conduct this training and to annually report to the OEIG concerning those individuals who have or have not completed training.

Failure to complete training when directed to do so exposes employees to disciplinary action by their state agencies and/or the appropriate ultimate jurisdictional authority. This may include action up to and including termination of employment. Additionally, the failure to complete the training and to provide a signed certification of completion of the training in accordance with the training's instructions and the requirements of the Ethics Act may be found to constitute a violation of the Ethics Act. Such a failure could result in possible administrative action by the Illinois Executive Ethics Commission, including its levy of a fine of up to \$5,000.

Your state agency will notify you and provide instructions to you concerning when and how to participate in ethics training as required by the Ethics Act.

Official Misconduct (Criminal Code of 1961 (720 ILCS 5/33-3))

A public officer or employee commits misconduct when, in his or her official capacity, he or she commits any of the following acts:

- Intentionally or recklessly fails to perform any mandatory duty as required by law

- Knowingly performs an act which he or she knows he or she is forbidden by law to perform
- With intent to obtain personal advantage for himself/herself or another, he or she performs an act in excess of his or her lawful authority
- Solicits or knowingly accepts for the performance of any act a fee or reward which he or she knows is not authorized by law

A public officer or employee convicted of violating any these provisions forfeits his or her office or employment. In addition, he or she commits a Class 3 felony.

Personnel Policies (from Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agencies. These policies must include elements related to the following:

- Work time requirements
- Documentation of time worked/time sheets
- Documentation for reimbursement for travel on official state business
- Compensation
- Earning and accrual of state benefits for those eligible for benefits

As a state employee, you are expected to become familiar with and adhere to all applicable personnel policies.

Time Sheets (from Ethics Act, Section 5-5)

State employees are required to accurately and honestly report the hours that they work for the state, on a timely basis, as directed by their state agency.

As a state employee, you are required to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour.

Conflicts of Interest

Many state employees have investments, business or personal relationships, second jobs, or even volunteer activities, each of which, has the potential to cause a conflict of interest in relationship to their employment with the state.

A conflict of interest occurs when the interests of a state employee or those of a state employee's friend, relative, or business associate come into conflict with the interests of the state. This might occur, for example, when a decision or recommendation that a state employee makes either affects or is affected by his or her personal interests or those of a family

member, friend, or business associate. This is especially true when the state employee's decision or recommendation results in some form of benefit to either the state employee or one of the employee's friends, family members, or business associates.

A state employee has a conflict of interest, for example, when he or she participates in a decision to award a contract for state business to a company owned by a friend, relative, or business associate. Another example of a conflict of interest occurs when a state employee participates in a decision to grant a state license to friend, relative, or business associate, or makes a regulatory decision affecting a friend, relative, or business associate.

Generally, any official actions taken by a state employee, such as, but not limited to, making a hiring decision or recommendation, or approving a license application, or granting a contract, should be in the best interests of the state. State employees' official actions must not be influenced by their own personal or financial interests, or those of their friends, family members, or business associates.

Do What's Right!

Recommended Best Practice

In any instance where a state employee believes that he or she may have a conflict of interest with respect to his or her state employment, it is his or her responsibility to immediately take steps to appropriately disclose the potential or real conflict and to take action to remedy it. Disclosure should be made in accordance with any applicable policies of the employee's state agency. In the absence of any such policy, disclosure should be made to the employee's supervisor or to the agency's ethics officer. Every immediate effort must be made to either eliminate the conflict or to recuse the employee from any official business related to the conflict. For example, a state employee must not participate in any state work activities or decisions that might result in an inappropriate financial benefit to herself/himself, or to a family member, friend, or business associate.

It is critically important for the proper functioning of state government and the public's confidence in the integrity and basic fairness of state government, for state employees to always avoid not only actual conflicts of interest, but also situations that may be perceived by others as a conflict of interest. Apparent conflicts of interest, like real or potential conflicts of interest, must be disclosed by state employees to their supervisors and/or ethics officers.

Furthermore, any preexisting, potential, or real conflicts of interest should be disclosed to the state by any applicant for a state job during the hiring process. *For example, a prospective employee whose new job will entail regulating a certain industry should disclose any current or prior relationships with a business that is subject to regulation by the state agency with which the prospective employee seeks employment. Specifically, for example, it would be unethical for*

someone seeking a job with a state agency to not disclose a financial interest in a business that is subject to that state agency's regulatory oversight.

Additionally, it is unethical for state employees to use information which they have gained access to as result of their official duties and which is not generally known to the public, to inappropriately benefit themselves, their friends, their family, or business associates. *For example, it would be inappropriate and may be illegal for a state employee to provide confidential information concerning a competitive bidding process for a state contract to a company owned by a personal friend that plans to submit a contract bid to the state.*

Prohibited Political Activities (from Ethics Act, Section 5-15)

A state employee may not participate in any of the following activities while acting, or appearing to act, in his/her capacity as a state employee or while conducting state business. If a state employee elects to take part in any of these activities during normal work hours, then he or she must use vacation, personal, or compensatory time off. Additionally, a state employee may never engage in any of these activities using state property and resources (such as state-provided telephones, cell phones, photocopiers, or computers):

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event *For example, a state employee may not send an email to fellow workers during work hours encouraging them to attend a rally for a candidate for elective office. Nor can a state employee use a state email account, at any time, to issue invitations for or advertise a political event to anyone.*
- Solicit contributions, including but not limited to purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event *For example, it is unlawful for a state employee to collect contributions to fund a political event by placing a "donations" canister on his or her desktop at work.*
- Solicit, plan the solicitation of, or prepare any document or report regarding any thing of value intended as a campaign contribution
- Plan, conduct, or participate in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question
- Survey or gather information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization, or for or against any referendum question *For example, it is unlawful for a state employee, during his or her workday, to call potential voters on behalf of a political party to find out whom they might vote for in an upcoming election.*

- Assist at the polls on Election Day on behalf of any political organization, candidate for elective office, or for or against any referendum question
- Solicit votes on behalf of a candidate, political organization, or for or against any referendum question, or help in an effort to get voters to the polls or participate in a vote recount on behalf of a candidate or political organization
- Initiate, prepare, circulate, review, or file a petition on behalf of a candidate for elective office or for or against any referendum question
- Make a contribution on behalf of any candidate for elective office *For example, it is unlawful for a state employee to donate money, during work hours, to a coworker who is soliciting contributions to the campaign fund of a candidate for elective office.*
- Prepare or review responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes
- Distribute, prepare for distribution, or mail campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question *For example, it is unlawful for a state employee to use a state-owned photocopying machine to produce campaign flyers for a local school board candidate.*
- Campaign for an elective office or for or against any referendum question
- Manage or work on a campaign for elective office or for or against any referendum question *For example, it is unlawful for a state employee to use state-provided telephones, even during her lunch hour or before or after her normal work hours, to work on someone's campaign for elective office.*
- Serve as a delegate, alternate, or proxy to a political party convention

Lastly, a supervisor may not compel a state employee to perform political activities at any time.

Do What's Right!

Recommended Best Practice

State employees must not engage in political activities during their state work day or while using any state resource (such as phones, copiers, letterhead, fax machines, etc.). In some instances, state agencies may have policies that more severely restrict the political activities of their employees and appointees, including those activities that may take place outside of the time which they work for the state. If in doubt as to whether

an activity or action may be prohibited by law or policy, a state employee should ask his or her agency's ethics officer for guidance.

Political Contributions on State Property (from Ethics Act, Section 5-35)

Political campaign contributions may not be intentionally solicited, accepted, offered, or made on state property by state employees (or by public officials, candidates for elective office, persons required to be registered under the Lobbyist Registration Act, or any officers, employees, or agents of any political organization).

State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state. Therefore, it is unlawful for a state employee to give or receive money for a candidate for elective office even if it occurs in a building which is exclusively leased, rather than owned, by the state.

Prohibited Offer or Promise (from Ethics Act, Section 5-30)

A state employee, appointee, or official may not promise anything of value related to state government, including but not limited to, positions in state government, promotions, or salary increases, other employment benefits*, board or commission appointments, favorable treatment in any official or regulatory matter, the awarding of any public contract, or action or inaction on any legislative or regulatory matter, in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office. *For example, it is unlawful for a state employee or official to offer someone a position in state government in exchange for a contribution to a political party or candidate.*

* "Employment benefits" include, but are not limited to, the following: modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review.

Ban on Gifts from Prohibited Sources (from Ethics Act, Section 10-10, 10-15 and 10-30)

State employees are sometimes offered benefits that are considered to be unlawful gifts under the Ethics Act. Gifts, when received related to work activities, may seem harmless or may be thought of as an accepted business practice. This is often the case with respect to items of value offered to a state employee by someone who is attempting to sell a product or service. However, gifts to state employees, which are related to their official duties, are generally prohibited. Sometimes, a prohibited and therefore, unlawful gift, may be offered to a state

employee as a “thank you” from a well-intentioned citizen who may be attempting to gratefully acknowledge the work of that employee. Under any circumstance, it is important for state employees to understand what constitutes a gift, that there are only a limited number of exceptions to the general ban on the acceptance of gifts, and what they must do if they are offered or receive a prohibited gift.

First, it is important to recognize that gifts may include a wide variety of things such as, but not limited to, tickets to sporting or cultural events, hospitality, specially discounted merchandise, or services, loans, gratuities, or other tangible or intangible items having monetary value. Gifts may be offered in the form of cash, food, drink, reimbursement of travel or lodging expense, and honoraria for speaking engagements. Product samples, software, books, and marketing trinkets such as pens, calculators or tools, are also gifts, which may be prohibited depending on their value and the circumstances under which they are offered.

The Ethics Act declares that a state employee may not intentionally solicit or accept a prohibited gift from certain individuals or entities that are defined by law as a “prohibited source.” Nor can a state employee solicit or accept a gift in violation of any federal or state statute, rule, or regulation. It is also unlawful for an employee’s spouse or immediate family member living with him/her to solicit or accept a prohibited gift from a prohibited source. A state employee also may not intentionally solicit or accept a prohibited gift from an agent of, a spouse of, or an immediate family member who is living with a prohibited source.

In addition to restrictions placed on gifts by the Ethics Act, your state agency may have its own policies, which in some instances, may be more restrictive than those of the Ethics Act. It is advisable that you review your agency’s policy on the acceptance of gifts.

Do What's Right!

Recommended Best Practice

In general, it is recommended that you simply decline anything of value offered to you (other than the compensation you receive from your state agency) in relation to your state employment, unless it meets one of the exceptions to the Ethics Act’s gift ban and is allowable under your state agency’s policies. This applies to gifts of appreciation that might be offered to you by a citizen that you have helped, food or drink offered to you by a vendor, or a discounted meal offered to you by a restaurant in order to attract your business because the restaurant is located in a building owned by the state.

It is advisable that prior to accepting anything of value in connection with your state job, that you discuss the matter with your agency’s ethics officer. Exceptions to this should be limited to a situation where you are fully confident that your acceptance of the gift does not violate any law, rule, policy, or regulation and does not create the perception of wrongdoing.

Under the Ethics Act, there are a limited number of specific circumstances under which you may lawfully accept certain items of value, such as the reimbursement of travel expenses for a meeting to discuss state business when the situation meets specific criteria and when such expenses have been approved in advance by your agency's ethics officer.

The Ethics Act specifies a number of sources from which gifts are generally prohibited. These prohibited sources include:

- A person or entity (a business, for example) seeking official action from the state employee or the employee's state agency or other employee directing the employee
- A person or entity that does business or seeks to do business with the employee, state agency, or other employee directing the employee
- A person or entity that conducts activities that are regulated by the employee, the state agency, or other employee directing the employee
- A person or entity that has interests that may be substantially affected by the performance or non-performance of the official duties of the state employee
- A person or entity that is a registered lobbyist under the Lobbyist Registration Act
- An agent of, a spouse of, or an immediate family member who is living with a prohibited source

The Ethics Act also includes twelve exceptions to its general ban on gifts from prohibited sources. These exceptions include:

- Opportunities, benefits, and services available to the general public on the same conditions
- Anything for which the state employee pays market value
- A lawful contribution under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate
- Educational materials and missions (as further defined below *)
- Travel expenses for a meeting to discuss state business (as further defined below **)
- A gift from a relative
- Anything provided on the basis of personal friendship, unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the employee and not because of the personal friendship
- Food or drink that does not exceed \$75 per calendar day
- Food, drink, lodging, and transportation related to outside business or employment activities, if the benefits are customarily provided to others in similar circumstances and are not offered because of the recipient's official position
- Intra-governmental or inter-governmental gifts (e.g. gifts between agency employees or between government employees)
- Bequests, inheritances, and other transfers at death
- Any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100

*Illinois Executive Ethics Commission Rule 1620.700 states that educational materials and missions are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; and are approved by the employee's ethics officer in advance of the mission or receipt of the materials. If advance approval is not practicable, the missions and materials shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

**Illinois Executive Ethics Commission Rule 1620.700 further states that travel expenses for a meeting to discuss state business are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; are for travel in a style and manner in character with the conduct of state business; and are approved by the employee's ethics officer in advance of the travel, if practicable. If advance approval is not practicable, the travel shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

Under the Ethics Act, if a state employee unintentionally receives an improper gift from a prohibited source, she or he can correct the situation and not be in violation of the law if she or he promptly does any of the following:

- Returns the gift to the giver
- Gives the gift to a not-for-profit organization, a 501(c)(3) organization
- Gives an amount of equal value to a not-for-profit organization, 501(c)(3) organization

Any gift that is intended to improperly influence a state employee's official conduct must not be accepted. Questions that a state employee may have related to gifts solicited or received in his or her capacity as a state employee or while conducting state business, should be referred to his or her ethics officer.

[Revolving Door Restrictions \(from Ethics Act, Section 5-45\)](#)

The Ethics Act contains restrictions that may, under certain circumstances, affect whether a state employee (or his/her family members) may lawfully accept employment, compensation, or fees from another person or entity after the employee ends his or her state employment.

The Ethics Act also contains requirements for certain employees and former employees (or the spouse or immediate family member living with such a person) to immediately notify the appropriate Executive Inspector General if offered non-state employment from certain persons or entities.

Restrictions Related to Contract Decisions

If, within one year before terminating state employment, a state employee participated personally and substantially in the award of state contracts or the issuance of state contract change orders with a cumulative value of \$25,000 or more to a person, entity, its parent or subsidiary, that state employee (or the spouse or immediate family member living with such a person) may not knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year after terminating state employment.

Restrictions Related to Regulatory or Licensing Decisions

If, within one year before terminating state employment, a state employee participated personally and substantially in making a regulatory or licensing decision that directly applied to a person, entity, its parent or subsidiary, that state employee (or the spouse or immediate family member living with such a person) may not knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year after terminating state employment.

Additional Restrictions, Notification Requirements, and Procedures that are Dependent on the Nature of a State Employee's Duties

The enactment of recent amendments to the Ethics Act requires each executive branch constitutional officer to adopt a policy delineating which positions under his or her jurisdiction and control, by nature of their duties, may have the authority to participate personally and substantially in the award of state contracts or in regulatory or licensing decisions. **Any employee in a position which has been identified as having such authority and who is offered non-state employment during state employment or within a period of one year immediately after termination of state employment shall, prior to accepting such non-state employment, notify the appropriate Executive Inspector General.**

In addition to those positions determined by the executive branch constitutional officer as being subject to these employment restrictions, the appropriate Executive Inspector General has the authority to determine additional state positions under his or her jurisdiction that, due to their involvement in the award of state contracts or in regulatory or licensing decisions, are also subject to these employment restrictions and requirements to notify the Executive Inspector General of certain non-state employment offers. In all instances, an employee whose position is determined by either the constitutional officer or the Executive Inspector General as being subject to these employment restrictions will be provided written notification by the constitutional officer regarding the applicability of these employment restrictions to his or her position upon hiring, promotion, or transfer into a relevant position; and at the time the employee's duties are changed in such a way as to qualify that employee for the restrictions.

An employee receiving notification must certify in writing that he or she was advised of the prohibition and the requirement to notify the appropriate Executive Inspector General if offered non-state employment during state employment or within a period of one year immediately after termination of state employment.

Notification requirements, similar to those explained above, apply to the spouse or any immediate family member living with a state employee in a position which has been identified as having such contracting, licensing, or regulatory authority and when said spouse or immediate family member is offered non-state employment during the state employment or within a period of one year immediately after termination of the state employment of the related state employee. The related spouse or immediate family member shall, prior to accepting such non-state employment, notify the appropriate Executive Inspector General.

Within ten (10) calendar days after receiving notification of a non-state employment offer, the Executive Inspector General shall make a determination as to whether the state employee (or spouse or immediate family member living with the employee) is restricted from accepting such employment. An Executive Inspector General's determination may be appealed to the Executive Ethics Commission no later than ten (10) calendar days after the date of determination.

Additional Restrictions, Notification Requirements, and Procedures that are Independent of a State Employee's Duties

The following officers, members of the General Assembly, or state employees shall not, within a period of one year immediately after termination of office or state employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the person or entity or its parent or subsidiary, during the year immediately preceding termination of state employment, was a party to a state contract or contracts with a cumulative value of \$25,000 or more involving the officer, member, or state employee's state agency, or was the subject of a regulatory or licensing decision involving the officer, member, or state employee's state agency, **regardless of whether he or she participated personally and substantially in the award of the state contract or contracts or the making of the regulatory or licensing decision in question:**

- members of the General Assembly or officers;
- members of a commission or board created by the Illinois Constitution;
- persons whose appointment to office is subject to the advice and consent of the Senate;
- the head of a department, commission, board, division, bureau, authority, or other administrative unit within the government of this State;
- chief procurement officers, state purchasing officers, and their designees whose duties are directly related to state procurement; and
- chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors.

If you find yourself in a situation where you are offered employment or compensation by an individual or business that conducted official state business with you or your state agency, it is recommended that you discuss the matter with your state agency's ethics officer to ensure that you comply with the law. The Executive Ethics Commission may levy an administrative fine for a violation of the revolving door restrictions of the Ethics Act of up to three times the total annual compensation that would have been obtained in violation of the restrictions.

Whistle Blower Protection (from Ethics Act, Section 15-10)

People are often reluctant to report violations of the law, policies, rules, and regulations out of fear that those affected by their report may do something to harm them. In business or government such retaliation may occur in the form of denying someone who has reported misconduct a promotion or salary increase, or transferring that individual to a less preferable job. Such actions, when taken by a state employee or official against another state employee who has appropriately disclosed wrongdoing, are generally against the law.

An officer, state employee, or state agency may not lawfully take any retaliatory action against a state employee (such as reprimanding, firing, demoting, transferring, suspending, changing the terms or conditions of employment of, or denying a promotion of the employee) for doing any of the following:

- Disclosing or threatening to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, state agency, or other state employee that the state employee reasonably believes is in violation of a law, rule, or regulation
- Providing information or testifying about any violation of a law, rule, or regulation by any officer, member, state employee, or state agency
- Assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act

If a state employee retaliates against another state employee for reporting a violation of law or assisting in an investigation, then the individual taking the retaliatory action would be subject to disciplinary action up to and including discharge by his or her state agency, as well as potential administrative action by the Illinois Executive Ethics Commission for violating the Ethics Act. In addition, the employee subjected to the retaliatory action could file a lawsuit seeking compensation and other remedies as provided by law.

A list of potential remedies, including but not limited to reinstatement of employment and back pay, may be found in the State Officials and Employees Ethics Act (5 ILCS 430/15-25). The state circuit courts have jurisdiction to hear cases brought under this section of the Ethics Act.

Duty to Report Violations of Law, Rule, Regulation, or Policy (from Administrative Order #6, 2003)

In order to put an end to any form of misconduct it is important that those who have witnessed it or who have evidence of it take action. In the case of misconduct by state employees or officials that has been witnessed by another state employee, it is especially important that the matter be promptly reported to the appropriate investigative authorities. State employees have a special obligation to report such wrongdoing.

State employees, have a duty to report violations of laws, rules, or regulations by another state officer, employee, or vendor relating to state business.

To report a **non-emergency** violation of law, rule, or regulation, you should contact the Office of Executive Inspector General for the Agencies of the Illinois Governor via its toll-free Hotline at 866-814-1113. For those who require it, the Office may also be contacted toll-free via a Telecommunications Device for the Disabled (TTY) at 888-261-2734.

In the event of an emergency situation requiring an immediate police response, one should contact the Illinois State Police or the county, municipal, or campus police agency that can provide the fastest response (for example, by dialing “911”). Examples of emergency situations include those that involve the illegal use or possession of a weapon, bodily injury or threat of bodily injury, or criminal sexual assault.

If anyone attempts to improperly influence your official actions as a state employee, particularly if there is an attempt by anyone to have you or another state employee act or fail to act in a manner that is unlawful or violates your state agency’s policies, it is your responsibility to immediately report this matter to the appropriate authorities. In certain instances, a state employee’s failure to report a violation is in itself a violation of the law, as may be the case where a state employee fails to report a bribe (720 ILCS 5/33-2).

Duty to Cooperate and Rights and Responsibilities during Investigations (from Ethics Act, Section 20-70, EEC rules, Section 1620.300(c)(8) & Administrative Order #6, 2003)

State employees who become involved in an investigation conducted by the Office of Executive Inspector General or the Illinois Attorney General have a duty to cooperate. This means, among other things, that employees must participate in interviews as requested, tell the truth, not withhold information, and respect the confidentiality of any investigation.

By law, every state agency, officer, and employee shall cooperate with and provide assistance to the Executive Inspector General and her or his staff in the performance of any investigation. In particular, each state agency shall, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, make its premises, equipment,

personnel, books, records, and papers readily available to the Executive Inspector General. The Executive Inspector General or his/her staff may enter upon the premises of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation. In the course of an investigation, the Executive Inspector General may question any officer or employee serving in, and any other person transacting business with, the state agency, and may, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, inspect and copy any books, records, or papers in the possession of the state agency, including those made confidential by law, taking care to preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

The Executive Inspector General may compel any employee in a state agency to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence derived there from may be used against such employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.

When instructed by an OEIG investigator, a state employee who participates in an investigative interview should not inappropriately disclose any matter discussed during the interview, or even the existence of the investigation, except for example, when necessary to consult with private legal counsel.

With respect to OEIG investigations, EEC rule (Section 1620.300) provides for rights of employees during investigations, including:

“No EIG shall infringe upon the right of employees or officers to seek advice from their agency ethics officer on the interpretation and implementation of the Act, or to seek advice from private legal counsel.”

The full text of the rules governing OEIG investigations can be found at <http://www.ilga.gov/commission/jcar/admincode/002/002016200D03000R.html> or at the Executive Ethics Commission’s Web site at <http://www.eec.illinois.gov>.

Ex Parte Communications

There are laws which govern how information received by state agencies and their employees in relation to rulemaking, regulatory, quasi-adjudicatory, investment, and licensing procedures must be treated, especially when communications are received by state employees outside of a public forum. These laws are intended to ensure that such administrative procedures are conducted in a fair manner and that communications received by the state and its employees related to such administrative procedures are appropriately disclosed to those involved.

Most state employees are not affected by laws governing ex parte communications; however, if you are an employee of one of the several entities listed below, it is especially important that you understand these requirements and if not, seek the counsel of your agency's ethics officer.

[Ex Parte Communications in Rulemaking \(from Administrative Procedures Act, 5 ILCS 100, Section 5-165\)](#)

Under the Illinois Administrative Procedures Act, an ex parte communication is defined as any written or oral communication by any person, during the rulemaking period, that provides or requests information of a material nature or makes a material argument regarding potential action concerning an agency's (or board's) general, emergency, or peremptory rulemaking that is communicated to the head of the agency or an employee of the agency, and is:

- Not made in a public forum
- Not a statement limited to matters of procedure and practice
- Not a statement made by a state employee to fellow employees of the same board or agency

An ex parte communication received by any agency or board, its head, or its employee must be immediately reported to the agency's or board's ethics officer. The ethics officer must require that the communication be made a part of the record for the rulemaking proceeding and shall promptly file the communication with the Executive Ethics Commission. These requirements under the Illinois Administrative Procedures Act apply to all state agencies and boards.

The intent of this section of the Administrative Procedures Act is to ensure that all parties who are interested in administrative rules under consideration by a state agency or board are made aware of communication that may occur outside of a public forum between the agency or board and other interested parties.

[Ex Parte Communications in Regulatory, Quasi-Adjudicatory, Investment and Licensing Matters \(from Ethics Act, Section 5-50\)](#)

These requirements of the Ethics Act that are related to ex parte communications apply to the following state agencies:

Executive Ethics Commission
Illinois Commerce Commission
Educational Labor Relations Board
State Board of Elections
Illinois Gaming Board
Health Facilities Planning Board
Industrial Commission*
Illinois Labor Relations Board

Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims
Board of Review of the Department of Employment Security
Civil Service Commission

Department of Public Health and its licensing boards
Pollution Control Board

Illinois Liquor Control Commission
Property Tax Appeal Board
Illinois Racing Board
Illinois Purchased Care Review Board
Department of State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board

State Employees' Retirement System Board of Trustees
Judges' Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers' Retirement System Officers Board of Trustees
Personnel Review Board for the Treasurer
Department of Professional Regulation and its licensing boards**
Office of Banks and Real Estate and its licensing boards***
Department of Insurance

*the Industrial Commission is now known as the Illinois Workers' Compensation Commission

** the Department of Professional Regulation is now a division of the Department of Financial and Professional Regulation

*** the Office of Banks and Real Estate is now a division of the Department of Financial and Professional Regulation

Under the Ethics Act, an ex parte communication is defined as any written or oral communication by any person that imparts or requests information of a material nature or makes a material argument concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by a state agency or board, that is:

- Not made in a public forum
- Not a statement limited to matters of procedure and practice
- Not a statement made by a state employee to fellow employees of the same board or agency

An ex parte communication received by an agency or board, its head or an agency or board employee/appointee from an interested party or its representative must be promptly made a part of the related official record. "Interested party," means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by the matter under consideration by the agency or board.

An ex parte communication received by an agency or board, its head or an agency or board employee/appointee from other than an interested party or its representative must be reported to the agency's or board's ethics officer. The ethics officer shall promptly require the communication to become a part of the record and will promptly file the communication with the Executive Ethics Commission.

The intent of this section of the Ethics Act is to ensure that all parties who are interested in certain matters under consideration by these agencies are made aware of communication that may occur outside of a public forum between a state agency and other parties. Should you have any questions concerning whether or not a communication is subject to these ex parte rules, please contact your state agency's ethics officer.

Applicable EEC Rules (from EEC Rules, Section 1620.820)

The rules of the Executive Ethics Commission require that any state officer or employee who receives an ex parte communication from a non-interested party as excluded by Section 5-50(b-5) and Section 5-50(d) of the Ethics Act or an ex parte communication from any person that imparts or requests material information or makes a material argument regarding an agency's rulemaking pursuant to Section 5-165 of the Illinois Administrative Procedures Act shall report this communication within seven (7) days to his or her agency's ethics officer. The full text of the EEC's rule may be found at its Web site at <http://www.eec.illinois.gov>.

Should you have any questions concerning whether or not a communication is subject to these ex parte rules, please contact your state agency's ethics officer.

Disclosure of Economic (Financial) Interests (from Illinois Governmental Ethics Act, 5 ILCS 420 et seq.)

Some state employees, because of their responsibilities, are required to file an annual statement of economic interests with the Secretary of State's Office each year (by May 1).

Generally, this requirement applies to compensated employees who:

- Are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within state government, or who exercise similar authority with state government
- Have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the state in the amount of \$5,000 or more
- Have authority for the issuance or promulgation of rules and regulations within areas under the authority of the state
- Have authority for the approval of professional licenses
- Have responsibility for the financial inspection of regulated nongovernmental entities
- Adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration, or decision of any judicial or administrative proceeding within the authority of the state
- Have supervisory responsibility for 20 or more state employees
- Negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the state, whether real, personal, tangible or intangible
- Have responsibility with respect to the procurement of goods and services

It is the responsibility of the chief administrative officer of each state agency to annually certify to the Secretary of State the names and addresses of those employees who are required to file a statement. On or before April 1 annually, the Secretary of State will notify those same

individuals of the need to file statements. This notification typically includes a form for filing the statement. Alternatively, the form may be obtained via the Secretary of State's Web site at http://www.cyberdriveillinois.com/publications/pdf_publications/i1881.pdf.

The information required for disclosure via a statement of economic interests includes, for example, but is not limited to the following:

- The name and means of ownership that a state employee may have in any entity doing business with the State of Illinois, in which the ownership interest is in excess of \$5,000 (including, for example, real estate or stock, but not including a time deposit in a bank nor any debt instrument)
- The name and address of any professional organization in which the state employee is an officer, director, associate, partner, or proprietor from which the member derived income in excess of \$1,200 during the preceding calendar year
- The identity (such as, the address or legal description) of any capital asset such as real estate from which a capital gain of \$5,000 or more was realized during the preceding year
- The identity of any compensated lobbyist with whom the state employee maintains a close economic association
- The name of any entity doing business with the State of Illinois from which income in excess of \$1,200 was derived by the state employee during the preceding calendar year

Should a state employee have questions about statements of economic interests, he or she is strongly advised to contact his or her state agency's ethics officer.

Truthful Oral and Written Statements

It is vital to the integrity of state government that all oral and written statements made by state employees in their official capacity be made in what they believe to be an honest and truthful manner. This requirement applies to all means of communications and applies to documents, including, but not limited to:

- Time sheets
- Employment or appointment applications
- Statements of economic interests
- State agency rulings, orders, decisions, findings, etc.
- Letters, emails, and reports

Falsification of official documents or untruthful statements made in the conduct of state business are unethical, may violate state policies or law, and may subject a state employee to administrative action up to and including fine and/or termination of state employment, and in some instances, may result in criminal prosecution.

State Agency Policies

It is important that state employees adhere to those applicable laws, rules, policies, or regulations that are unique to their state agency. These policies may include for example:

- Specific time reporting or other personnel-related rules, including, but not limited to, requirements for employees to avoid being tardy, strict limitations on lunch and break periods, and directives to not misuse or abuse state resources by, for example, using state telephones, computers, vehicles, office supplies, or time for personal business
- Restrictions concerning the solicitation or acceptance of gifts, which may be more stringent than the general gift ban contained within the State Officials and Employees Ethics Act
- Prohibitions on certain political activities, which may be more restrictive than those prohibitions contained within the State Officials and Employees Ethics Act
- Rules governing purchasing procedures
- Hiring practices
- A code of conduct
- Restrictions concerning conflicts of interest

It is important that the business of state agencies always be conducted in accordance with all applicable laws, rules, policies, and regulations. Please be aware that many of these laws and rules, including the State Officials and Employees Ethics Act, are applicable to employees even in instances where their employment is temporary, seasonal, intermittent, or performed under a personal services contract.

It is important that state employees familiarize themselves with all the laws, rules, and policies which apply to them and that they abide by them. If necessary, state employees should ask their supervisor, or their agency's legal counsel or its ethics officer for guidance concerning those laws and rules which apply to their service to the state.

Penalties

Penalties for violations of ethics-related laws, rules, and policies by state employees are dependent upon the specific circumstances. Penalties may include administrative action up to and including termination of employment. In addition, the Executive Ethics Commission may levy administrative fines, and illegal acts, such as bribery, theft, or official misconduct, may result in criminal prosecution.

Disciplinary action under the State Officials and Employees Ethics Act against a person subject to the Act and the Personnel Code is under the jurisdiction of the Executive Ethics Commission. Any hearing to contest disciplinary action against a person subject to the Act pursuant to agreement between the Executive Inspector General and an ultimate jurisdictional authority will be conducted by the Executive Ethics Commission.

Ethics Questions or Concerns

State employees who have questions or concerns about a work-related ethics issue should contact their state agency's ethics officer. Under the State Officials and Employees Ethics Act, ethics officers, among their other duties, serve to provide guidance to state employees in the interpretation and implementation of the Ethics Act, which guidance the employee may in good faith rely upon.

Examples of Ethical Obligations of State Employees

The following are examples of actions or situations concerning the ethical obligations of state employees, appointees, and officials:

1. **Situation:** A state employee is directed by his boss to use a state-owned automobile to pick up a catering order for a family birthday celebration to be held after the end of the work day.

Ethical Assessment: It is wrong to misappropriate any state resource, such as a state vehicle or a state employee's work time, for personal use or any purpose not specifically allowed under law or policy.

2. **Situation:** A state employee accepts an offer to have lunch with a sales representative for a vendor seeking to do business with the state employee's agency.

Ethical Assessment: Depending on the circumstances, including the value of the meal, the employee's acceptance of the vendor's lunch offer, may not violate the Ethics Act's gift ban; however, acceptance of the lunch offer has the potential to give the appearance of allowing the vendor to inappropriately influence the employee's or the agency's official actions. Furthermore, depending on the state agency's policies, acceptance of the lunch may be in violation of those policies. It's best for state employees to decline an offer of anything of value that could be perceived as an inappropriate gift.

3. **Situation:** A state employee, who is directly involved in making regulatory decisions for the state commission that employs her, receives an offer of employment from a business unrelated to the employee's work or the work of her state commission. Because the employment offer is from a company that has no business relationship with her or her state agency, the state employee is uncertain if she needs to report the employment offer to anyone prior to accepting it.

Ethical Assessment: Under the Ethics Act, employees whose positions have been designated as having the authority to participate personally and substantially in regulatory or licensing decisions are among those who must notify the appropriate

Inspector General, prior to accepting an employment offer made during the employee's state employment or during a period of one year immediately after termination of state employment.

4. **Situation:** A state employee is one half hour late in arriving at her work location because of widespread traffic delays due to a big snow storm. She, like many of her coworkers, views her tardiness as being beyond her own control. As a consequence, she does not report her tardiness on her time sheet.

Ethical Assessment: It is unethical and unlawful to provide false information in a time report used as a basis for compensating a state employee. State employees must report the actual time spent each day on official business to the nearest quarter hour.

5. **Situation:** At the direction of his boss, a state employee uses his office computer to draft a letter encouraging friends of the boss to vote for a candidate in an upcoming election. The employee prepares the letter during his lunch hour.

Ethical Assessment: Although the Ethics Act does not prohibit state employees from preparing campaign literature or working on a campaign for elective office outside of their work hours or when using vacation, personal, or compensatory time off; state employees may not do so at any time by misappropriating a state resource, such as by using a state-owned computer or email account. Furthermore, at no time may a supervisor direct a state employee to participate in any prohibited political activity as part of the employee's duties or as a condition of state employment.

6. **Situation:** In order to meet a financial reporting deadline, a state employee, in the absence of his boss, knowingly approves the issuance of a state agency financial report, despite understanding that he does not have the authority to do so.

Ethical Assessment: It is unethical and unlawful for a state employee to perform an official act that he is not authorized to perform. In certain circumstances, doing so may be considered official misconduct and subject to criminal prosecution.

7. **Situation:** A state employee sets up a deal to approve a state contract with a building maintenance firm in exchange for the vendor's promise to provide discounted services to a small business owned by the state employee's wife.

Ethical Assessment: This arrangement represents a conflict of interest for the state employee. It most likely violates agency or state policy and may be a violation of other state law. It is unethical for a state employee to take any official action for the purpose of obtaining inappropriate benefit for himself, a friend, family member, or business associate. In certain circumstances, such action may constitute a criminal offense.

8. **Situation:** A state employee is responsible for approving payments for counseling services furnished to clients of his state agency by other service providers who work under contract to the state. Occasionally, the state employee approves such payments despite the fact that the service provider has not submitted the required paperwork to substantiate the payments. The state employee does so because he is overloaded with work and does not have the time to ask the service provider to submit the proper paperwork.

Ethical Assessment: Bending or ignoring law, rules, regulations, or policies, is wrong, regardless of the rationale. Depending on the circumstances, the employee may be subject to disciplinary action or other penalties under the law.

9. **Situation:** Without being requested to do so, a state employee takes steps to speed up the processing of a license application submitted to the state employee's agency by a neighbor.

Ethical Assessment: Although the state employee took actions to speed up the license application processing without any prompting by her neighbor, the state employee is showing favoritism for the neighbor and has created the appearance of wrongdoing. This may violate the policies of the employee's state agency and could lead to disciplinary action or other administrative action against the employee, depending on the specific circumstances.